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By ECF

Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

June 26, 2022

In Re: *New York City Policing During Summer 2020 Demonstrations*,
No. 20 Civ. 8924 (CM) (GWG)

Your Honor:

I am a Senior Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and I am among counsel for the defense in the above-referenced matter. I write respectfully with the understanding that the Court does not allow surreplies, for the limited purpose of correcting critical inaccuracies in plaintiffs' reply letter filed on June 24, 2022 (ECF No. 613), which mischaracterize statements in defendants' June 16 letter (ECF No. 605) while inaccurately insinuating that defendants' letter contained intentional omissions and/or misstatements.

Plaintiffs' June 24 reply letter inaccurately states that defendants' June 15 letter, "assured the Court that *none of the documents identified in [plaintiffs'] motion* were relevant or responsive." (ECF No. 613 at 1) (emphasis added). Defendants' June 15 letter did not make such a representation. Under the heading, "Non-Responsive Redactions," defendants described their agreement previously relayed to plaintiffs to "re-review all ['NR'] redactions to ensure their propriety," and to, *inter alia*, remove any redactions found to be covering responsive material and re-produce all such documents without the "NR" redactions. (ECF No. 605, at 3). In this context, defendants stated: "In the meantime, defendants have re-reviewed the specific documents identified by plaintiffs' counsel and can confirm that all *redacted* material was non-responsive." (*Id.* at 3) (emphasis added). Given the context and plain language of this statement, it clearly referred specifically, and only, to the documents containing "NR" redactions identified in plaintiffs' June 7 letter motion. It did not, as plaintiffs' June 24 letter states, "mean that Defendants had found *all* examples identified in Plaintiffs' motion [as] confirmed to be non-responsive." (ECF No. 613 at 5) (emphasis added).

Under the separate heading, "Withholding of Non-Responsive Documents," in defendants' June 15 letter, defendants' original draft contained a paragraph addressing their re-

review of the specific documents identified in plaintiffs' June 7 letter motion that had been withheld ("slip-sheeted") as "non-responsive." That paragraph indicated that defendants had determined two of those four previously withheld documents identified by plaintiffs were responsive and that defendants would produce those documents. However, that paragraph was inadvertently deleted during the editing process. The omission of this information from defendants' June 15 letter was neither intentional nor in bad faith.

Moreover, when plaintiffs emailed defendants on June 22 requesting copies of the slip-sheeted documents identified in plaintiffs' June 7 letter, defendants made no effort to conceal this information. To the contrary, defendants informed plaintiffs that, while they would not agree to produce any documents confirmed as non-responsive, two of the four documents identified in plaintiffs' June 7 letter were responsive. And as promised, defendants hastened to provide copies of those materials to plaintiffs as soon as possible, which they did the following day (June 23), so that plaintiffs could review them in advance of the June 24 deadline for their reply letter.

Thank you for your attention herein.

Respectfully submitted,

Stephanie M. Breslow /s

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cc: ALL COUNSEL (via ECF only)